

<b>STEPHENS MEDIA, LLC d/b/a</b>	)	
<b><i>HAWAII TRIBUNE-HERALD</i></b>	)	
	)	
<b>Employer,</b>	)	<b>CASE NOS. 37-CA-7043</b>
	)	<b>37-CA-7045</b>
	)	<b>37-CA-7046</b>
	)	<b>37-CA-7047</b>
<b>AND</b>	)	<b>37-CA-7048</b>
	)	<b>37-CA-7084</b>
	)	<b>37-CA-7085</b>
<b>HAWAII NEWSPAPER GUILD,</b>	)	<b>37-CA-7086</b>
<b>LOCAL 39117,</b>	)	<b>37-CA-7087</b>
<b>COMMUNICATIONS WORKERS OF AMERICA,</b>	)	<b>37-CA-7112</b>
<b>AFL-CIO</b>	)	<b>37-CA-7114</b>
	)	<b>37-CA-7115</b>
<b>Union.</b>	)	<b>37-CA-7186</b>
	)	

COMES NOW, the Employer, Stephens Media, LLC, d/b/a Hawaii Tribune-Herald (hereafter “*Hawaii Tribune-Herald*”), pursuant to Section 102.26 of the Board’s Rules and Regulations, Series 8, as amended, by and through counsel, requesting special permission from the Board to appeal the Order denying *Hawaii Tribune-Herald’s* petition to revoke a subpoena duces tecum served by Counsel for General Counsel. The Order was issued by Administrative Law Judge John J. McCarrick (the “ALJ”) and dated October 19, 2007.<sup>1</sup>

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Counsel for General Counsel served a subpoena duces tecum (No. B-403230) on *Hawaii Tribune-Herald* on September 28, 2007. A petition to revoke was timely filed by *Hawaii Tribune-Herald* on October 5, 2007. Counsel for General Counsel filed a response to the Petition to Revoke on October 9, 2007. Thereafter, the ALJ issued an Order on October 19, 2007<sup>2</sup> denying *Hawaii Tribune Herald's* Petition to Revoke. The Order required *Hawaii Tribune-Herald* to create a privilege log and produce it to Counsel for General Counsel.<sup>3</sup>

As more fully set forth in the accompanying appeal, *Hawaii Tribune-Herald* requests special permission to appeal because the ALJ's Order requiring *Hawaii Tribune-Herald* to create a privilege log raises serious questions regarding the attorney-client privilege. As grounds for the appeal, *Hawaii Tribune-Herald* notes that the Counsel for General Counsel and the ALJ have relied solely upon an unpublished and non-authoritative Board order to require *Hawaii Tribune-Herald* to create a privilege log, which sets forth the date and description of documents created for *Hawaii Tribune-Herald* by counsel. Counsel for *Hawaii Tribune-Herald* is required, by ethical considerations, to assert all non-frivolous defenses to the creation of a privilege log, which may very well violate the attorney-client privilege, especially when the sole authority for it is an unpublished order from another case.

In addition, the creation of a privilege log, is nothing more than discovery being utilized by Counsel for the General Counsel, which is not allowed under the Board's Rules and Regulations or case law.

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<sup>2</sup> The original Order was dated October 12, 2007 and a corrected Order was then issued with the proper date for the order, which is October 19, 2007. In all other respects, the original and corrected orders are the same.

<sup>3</sup> The Order also orders the production of undeveloped film. There are no documents responsive to this request; the issue is moot.

For these reasons, the reasons in the accompanying appeal, and any other reason relied upon by the Board, *Hawaii Tribune-Herald* respectfully requests that the Board grant its special permission to appeal and overturn the ALJ's Order.

DATED:       October 25, 2007  
              Nashville, Tennessee

Respectfully Submitted,

**THE ZINSER LAW FIRM, P.C.**

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that the foregoing **REQUEST FOR SPECIAL PERMISSION FROM THE BOARD TO APPEAL THE OCTOBER 19, 2007 ORDER OF THE ADMINISTRATIVE LAW JUDGE** was served overnight, via Federal Express on this 25<sup>th</sup> day of October 2007 on the following:

Lester Heltzer  
Executive Secretary  
National Labor Relations Board  
1099 14th St. N.W.  
Washington, D.C. 20570-0001  
**(and via electronic filing)**

Hon. John J. McCarrick,  
Hon. Mary Miller Cracraft  
NLRB Assoc. Chief ALJ  
901 Market Street, Suite 300  
San Francisco, CA 94103-1771  
**(and via electronic filing)**

Joseph Norelli, Regional Director,  
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Wayne Cahill  
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